

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	No. 08 CR 52
)	Judge John W. Darrah
JESUS M. RIVERA and)	
PERRY D. BLACK)	

MOTION OF THE UNITED STATES FOR ENTRY OF
PRELIMINARY ORDER OF FORFEITURE

The United States of America, through PATRICK J. FITZGERALD, United States Attorney for the Northern District of Illinois, moves for entry of a preliminary order of forfeiture as to specific property pursuant to the provisions of Title 21, United States Code, Section 853 and Fed. R. Crim. P. 32.2, and in support thereof submits the following:

1. On February 7, 2008, an indictment was returned charging defendants JESUS M. RIVERA and PERRY D. BLACK with violations of the Controlled Substances Act pursuant to the provisions of 21 U.S.C. § 846.

2. The indictment sought forfeiture to the United States of certain property pursuant to the provisions of 21 U.S.C. § 853(a)(1) and (2).

3. On June 18, 2008, pursuant to Fed R. Crim. P. 11, defendants JESUS M. RIVERA and PERRY D. BLACK entered voluntary pleas of guilty to Count Two of the indictment charging them with a violation of 21 U.S.C. § 846.

4. Pursuant to the terms of the plea agreements and as a result of their violation of 21 U.S.C. § 846, defendants JESUS M. RIVERA and PERRY D. BLACK agreed that funds in the amount of \$43,384 are subject to forfeiture pursuant to the provisions of 21 U.S.C. § 853(a)(1) and (2), as property used or intended to be used, to commit or facilitate the commission of the offense.

5. Further, defendants JESUS M. RIVERA and PERRY D. BLACK have agreed to the entry of a preliminary order of forfeiture, before or at the time of sentencing, relinquishing any right, title or interest they have in the foregoing funds so that the funds may be disposed of according to law.

6. Pursuant to the provisions of 21 U.S.C. § 853(a)(1) and (2), the United States seeks forfeiture of all right, title, and interest that defendants JESUS M. RIVERA and PERRY D. BLACK may have in the foregoing property so that the property may be disposed of according to law.

7. Upon entry of a preliminary order of forfeiture, pursuant to the provisions of 21 U.S.C. § 853(g), the United States Marshal shall seize and take custody of the funds in the amount of \$43,384 for disposition as the Attorney General may direct.

8. Further, pursuant to the provisions of 21 U.S.C. § 853(n)(1), the United States Marshal shall publish notice of this order and of its intent to dispose of the property as the Attorney General may direct. The United States may also, pursuant to statute, to the extent practicable, provide written notice to any person known to have alleged an interest in the property that is the subject of the preliminary order of forfeiture. The government is unaware, at this time, of anyone who qualifies for such notice.

9. Pursuant to the provisions of 21 U.S.C. § 853(n)(2), if, following notice as directed by this court and 21 U.S.C. § 853(n)(1), any person other than the defendants, asserts a legal claim in the property which has been ordered forfeit to the United States, within thirty days of the final publication of notice or this receipt of notice under paragraph eight (8), whichever is earlier and petitions this Court for a hearing to adjudicate the validity of this alleged interest in the property the government shall request a hearing. The hearing shall be held before the Court alone, without a jury.

10. Following the Court's disposition of all third parties interests, upon the government's

motion the Court shall, if appropriate, enter a final order of forfeiture, as to the property which is the subject of this preliminary order of forfeiture, vesting clear title in the United States of America.

11. The United States requests that the terms and conditions of this preliminary order of forfeiture entered by the Court be made part of the sentences imposed against JESUS M. RIVERA and PERRY D. BLACK and included in any judgment and commitment orders entered in this case against them.

WHEREFORE, pursuant to the provisions of 21 U.S.C. § 853(a)(1) and (2) and Fed. R. Crim. P. 32.2, the United States requests that this court enter a preliminary order of forfeiture as to the funds in the amount of \$43,384 in accordance with the draft preliminary order of forfeiture which is submitted herewith.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned Assistant United States Attorney hereby certifies that the following documents:

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was served on June 19, 2008, in accordance with FED. R. CIV. P. 5, LR5.5, and the General Order on Electronic Case Filing pursuant to the district court's Electronic Case Filing (ECF) system as to ECF filers.

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